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EXAMINER

CHOW, MING

ART UNIT PAPER NUMBER

2645

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/083,822

Applicant(s)

KHERADPIR ET AL.

Examiner

Ming Chow

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**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “non-persistent communication channel” is not clearly defined. It is unclear the term “non-persistent communication channel” refers to “channel hopping” as used in certain wireless communications, or TDMA technology (communication channel is time-shared by multiple communications and therefore the communication channel is not permanently open and dedicated, as claimed “non-persistent”, to a specific communication), or others. If Applicant refers to a service like the AOL Instant Messenger<sup>TM</sup>, the Applicant must refer and qualify the trade-marked product. Also, it is known to one skilled in the art, the AOL Instant Messenger<sup>TM</sup> requires a fixed IP address for each communication party. The logical communication channel between two fixed IP addresses is fixed and is not “non-persistent” as claimed.

2. Claim 1 recites the limitation "the user" (line 6 of claim 1). There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Gudjonsson et al (US: 6564261).

For claims 1, 5, 9, Gudjonsson et al teach on Fig. 9 communication devices associated with a voice network and a data network.

Gudjonsson et al teach on Fig. 26 connection server (claimed “unified communication manager”).

Gudjonsson et al teach on column 9 line 8-12 SIP (reads on claimed “instant messaging service”).

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Regarding “receiving a message.....communication devices”, Gudjonsson et al teach on column 3 line 9-13.

Regarding “configuring a.....the message”, Gudjonsson et al teach on column 3 line 14-63 how the connection is configured.

Regarding “transmitting to.....communication device”, Gudjonsson et al teach on column 13 line 5-18 a sending user (claimed “the user”) is provided a text chat invitation (claimed “instant messaging service”) when the communication session do get established (reads on claimed “notification indicating the configuration of the connection”).

Regarding claims 2, 6, 10, Gudjonsson et al teach on column 8 line 57-63 determining whether the user is currently online or not.

Regarding claims 3, 7, 11, 15, for a voice chat the signaling information must be received via a voice network.

Regarding claims 4, 8, 12, 14, for a text chat the connection information must be received via a data network.

Regarding claim 13, all rejections as stated in claim 1 above apply.

Regarding “establishing the telephone calls to the user in accordance with the rules, including forwarding calls when necessary to one or more terminals associated with the user based on stored user profile information”, Gudjonsson et al teach on column 9 line 66 to column

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10 line 7 forward invitations (reads on claimed “forwarding calls”) based on configured RS (reads on claimed “rules.....on stored user profile”).

Regarding claim 16, Gudjonsson et al teach on column 15 line 60-61 forward (claimed “downloading”) the status change (claimed “code”) to the clients (claimed “at least one of the communication devices”).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gudjonsson et al (US: 6564261), and in view of Matthews et al (US: 6584122).

All rejections as stated in claims 1 and 15 above apply.

Gudjonsson et al failed to teach “receiving a.....speech processor”. However, Matthews et al teach on column 17 line 51-53 a DSP (claimed “speech processor”) in a voice network. It would have been obvious to one skilled at the time the invention was made to modify Gudjonsson et al to have the “receiving a.....speech processor” as taught by Matthews et al such

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that the modified system of Gudjonsson al would be able to support the speech processor to the system users.

***Response to Arguments***

5. Applicant's arguments filed on 5/20/03 have been fully considered but they are not persuasive.

- i) Applicant argues, on page 10-14, regarding prior arts referenced by previous Office Action and the new amendments. However, new rejections as necessitated by the new amendments have been stated above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

**Or faxed to TC2600's Customer Service FAX Number 703-872-9314.**

Patent Examiner

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Ming Chow



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